

said statements, to wit, "Mincemeat," "meat \* \* \*," and "The meat contained herein has been inspected and passed at an establishment where Federal inspection is maintained," were false, misleading, and deceptive in that said statements purported and represented the product to be a mincemeat containing a substantial proportion of meat, whereas in truth and in fact it contained but a trace of meat, namely, 0.1 per cent; (2) that the product was labeled and branded as set forth above so as to deceive and mislead the purchaser, in that the label and brand was calculated and intended to convey the impression and create the belief that the product was an article containing a substantial amount of meat, whereas in truth and in fact it did not contain a substantial amount of meat, but contained only a trace of meat, namely, 0.1 per cent.

On October 28, 1913, the defendant company entered a plea of nolo contendere to the information, and the court imposed a fine of \$25 and costs, amounting to \$14.60.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 18, 1914.*

**2906. Adulteration and misbranding of tomato catsup. U. S. v. Otto Kuehne Preserving Co. Plea of guilty. Fine, \$25 and costs. (F. & D. No. 4480. I. S. No. 14374-d.)**

On March 3, 1913, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Otto Kuehne Preserving Co., a corporation, Topeka, Kans., alleging shipment by said company, in violation of the Food and Drugs Act, on or about November 24, 1911, from the State of Kansas into the State of Nebraska, of a quantity of so-called tomato catsup which was adulterated and misbranded. The product was labeled: "Green Leaf Brand" (Design—green leaf) "Trade mark Reg. Vegetable Catsup. Contains not to exceed 1/10 of 1% Benzoate of Soda and coloring added. Packed by Otto Kuehne Preserving Co., Topeka, Kans."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results: Artificially colored with a coal-tar dye, namely, Cochineal Red A, Schulz and Julius No. 106. Adulteration of the product was alleged in the information for the reason that it was composed wholly or in part of pumpkin and apple, colored with a coal-tar dye known as "Cochineal Red," prepared in imitation of tomato catsup. Adulteration was alleged for the further reason that the so-called tomato catsup was not prepared or composed of sound product made from properly prepared pulp of clean, sound, ripe tomatoes with spices and the permitted preservatives. Misbranding was alleged for the reason that the statement "Vegetable Catsup," borne on the label of each of the bottles in which the product was sold, was false and misleading because the word "Vegetable" was so inconspicuously displayed that it failed to attract the attention of the reader, and further, that the word "Catsup" was so conspicuously displayed as to convey to the reader or purchaser the impression that the product was tomato catsup, as such product is known to the general trade and public, when in truth and in fact it was not catsup or tomato catsup, but was a product composed wholly or in part of pumpkin and apple artificially colored with coal-tar dye to simulate the appearance of tomato catsup, and was therefore misbranded. Misbranding was alleged for the further reason that the product was an imitation of tomato catsup and was offered for sale and sold under the distinctive name of that article, and further, that it was labeled and branded so as to deceive and mislead the purchaser into the belief that it was tomato catsup, the word "Catsup" being in large, conspicuous type, and the word "Vegetable" being in small, inconspicuous type, which form of labeling and branding conveyed to the purchaser the impression that the product was tomato catsup, whereas in truth and in fact it was not tomato catsup, but was a product consisting in whole or in part of pumpkin and apple, artificially colored and prepared in imitation of tomato catsup.

On April 19, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of \$25 and costs.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 18, 1914.*